

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

WILLIAM CRAWFORD, a minor, by
his legal guardian Mary Jefferson
and MARY JEFFERSON in her own right,
Plaintiffs,

v.

THE SCHOOL DISTRICT OF PHILADELPHIA,
Defendant.

CIVIL ACTION

NO. 98-1851

MEMORANDUM

Broderick, J.

June 3, 1998

Plaintiff William Crawford, a student in the School District of Philadelphia, and his legal guardian Mary Jefferson have brought this sexual discrimination action under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. and under 42 U.S.C. § 1983. Defendant School District of Philadelphia has filed a motion to dismiss the plaintiffs' § 1983 and punitive damages claims pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. The defendant has also filed a motion to strike all references in the complaint to criminal matters involving the School District's employee. For the reasons set forth below, the Court will grant the motion to dismiss the plaintiffs' § 1983 and punitive damages claims and will deny the motion to strike the requested portions from the complaint.

I. BACKGROUND

The plaintiffs commenced this action with the filing of a three-count complaint on April 7, 1998. Count I of the complaint alleges a claim for sexual harassment under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681-1688. The plaintiffs claim that Crawford was sexually harassed by the vice principal of the Strawberry Mansion High School and that he was subjected to a hostile environment. The plaintiffs also claim that the School District of Philadelphia knew or was substantially aware of the vice principal's sexual propensity towards the minor plaintiff and other young boys and refused to take adequate measures to protect them. Count II of the complaint alleges a claim for punitive damages. Count III of the complaint alleges a claim under 42 U.S.C. § 1983.

The defendant filed a motion to dismiss Counts II and III (but not Count I) and a motion to strike on April 17, 1998, contending that Count II of the complaint must be dismissed because punitive damages are not recoverable from a school district under either Title IX or § 1983. The defendant also contends that Count III of the complaint must be dismissed because a person may not maintain a § 1983 claim and a Title IX claim at the same time. The defendant also seeks to strike paragraphs 26-32 of the complaint relating to the vice principal's criminal prosecutions and to dismiss any claims which might be raised on the basis of state law. The plaintiffs filed a response opposing the defendant's motions but conceding that

their § 1983 claim in Count III must be dismissed.

II. STANDARD OF REVIEW

When reviewing a Rule 12(b)(6) motion, the Court must accept as true all factual allegations contained in the complaint as well as all reasonable inferences that may be drawn from those allegations and view them in the light most favorable to the non-moving party. H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 249-50 (1989); Zlotnick v. TIE Communications, 836 F.2d 818, 819 (3d Cir. 1988). The motion should be denied "unless it appears beyond doubt that the plaintiff[s] can prove no set of facts in support of [their] claims which would entitle [them] to relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957).

III. DISCUSSION

A. Count III: 42 U.S.C. § 1983

The defendant has moved to dismiss Count III of the plaintiffs' complaint, which alleges a claim under 42 U.S.C. § 1983. The law is clear that a plaintiff may not maintain both a Title IX claim and a § 1983 claim at the same time, because a federal statute which provides its own enforcement scheme forecloses a right of action under § 1983. Middlesex County Sewerage Auth. v. National Sea Clammers Ass'n, 453 U.S. 1, 20-21 (1981); Williams v. School Dist. of Bethlehem, 998 F.2d 168, 176 (3d Cir. 1993); Pfeiffer v. Marion Ctr. Area Sch. Dist., 917 F.2d 779, 789 (3d Cir. 1990). The plaintiffs have conceded as much in

response to the motion to dismiss, and agree that Count III should be dismissed. Accordingly, Count III of the complaint will be dismissed.

B. Count II: Punitive Damages

The defendant also moves to dismiss Count II of the complaint for punitive damages against the School District of Philadelphia. Damages are generally available under Title IX. Franklin v. Gwinnett County Pub. Sch., 503 U.S. 60, 76 (1992). However, punitive damages are not recoverable against municipalities or municipal subdivisions under federal law, 42 U.S.C. § 1981a(b)(1); City of Newport v. Fact Concerts, Inc., 453 U.S. 247, 271 (1981). Public school districts are considered municipal entities. See, e.g., Jett v. Dallas Indep. Sch. Dist., 491 U.S. 701 (1989); see also Collier v. William Penn Sch. Dist., 956 F. Supp. 1209, 1217 (E.D. Pa. 1997) (Bartle, J.). Accordingly, the plaintiffs may not recover punitive damages from the School District of Philadelphia, and Count II of the complaint must be dismissed.

C. Motion to Strike

The defendant has moved to strike paragraphs 26-32 from the plaintiffs' complaint. These paragraphs concern three separate criminal complaints filed by the District Attorney of Philadelphia against the vice principal of the school which the minor plaintiff attended. One of these criminal complaints

involved an incident or incidents concerning the minor plaintiff. The defendant contends that these paragraphs must be stricken under Rule 403 of the Federal Rules of Evidence, but the Rules of Evidence are inapplicable at this stage of the proceedings. The allegations contained in paragraphs 26-32 of the complaint are only part of the pleadings in this case, they are not evidence. Moreover, Rule 12(f) of the Federal Rules of Civil Procedure instructs that a court may only strike pleadings if they are "redundant, immaterial, impertinent, or scandalous." Motions to strike are disfavored and will only be granted when the movant "clearly show[s] that the challenged matter 'has no bearing on the subject matter of the litigation and that its inclusion will prejudice the defendants.'" 2 Moore's Federal Practice § 12.37, at 12-95 (3d ed.). The defendant has not met this strict standard, as the allegations concerning the criminal prosecutions of the School District's vice principal may have some bearing on whether the School District was aware or should have been aware of the vice principal's alleged conduct. Accordingly, the defendant's motion to strike paragraphs 26-32 from the complaint will be denied.

D. State Law Claims

Although the plaintiffs have not included any state law claims in their complaint, the defendant nevertheless moves to dismiss any claims which might be raised based on state law. Apparently, the defendant is concerned because paragraph 7 of the

complaint alleges that the Court has supplemental jurisdiction over state law claims pursuant to 28 U.S.C. § 1367. As the plaintiffs have not pled any state law claims, paragraph 7 must have been included as an oversight. Accordingly, the defendant's motion to dismiss the plaintiffs' state law claims will be dismissed as moot.

IV. CONCLUSION

For the foregoing reasons, the defendant's motion to dismiss the plaintiffs' claim pursuant to 42 U.S.C. § 1983 and the plaintiffs' claim for punitive damages will be granted. The defendant's motion to strike paragraphs 26-32 of the complaint concerning the criminal prosecutions of the School District's employee will be denied. The defendant's motion to dismiss any state law claims will be dismissed as moot.

An appropriate Order follows.

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ORDER

AND NOW, this 3rd day of June, 1998; upon consideration of the defendant's Motion to Dismiss (Document No. 2) and the plaintiffs' response thereto; and for the reasons set forth in this Court's Memorandum of this date;

IT IS ORDERED:

1. The defendant's motion to dismiss Count II of the complaint for punitive damages is GRANTED, and Count II is DISMISSED.

2. The defendant's motion to dismiss Count III of the complaint alleging a claim under 42 U.S.C. § 1983 is GRANTED, and Count III is DISMISSED.

3. The defendant's motion to strike paragraphs 26-32 from the complaint is DENIED.

4. The defendant's motion to dismiss any state law claims is DISMISSED AS MOOT.

RAYMOND J. BRODERICK, J.